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IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-752

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

THE CATHOLIC BISHOP OF CHICAGO,
A CORPORATION SOLE,
and
DIOCESE OF FORT WAYNE-SOUTH BEND, INC., ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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BRIEF FOR THE GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS AS AMICUS CURIAE

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BRIEF FOR THE GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS AS AMICUS CURIAE

INTEREST OF THE AMICUS CURIAE*

The Seventh-day Adventist Church is a recognized worldwide religious denomination. It became a formally organized religious body in 1863. Today it has a

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* Written consent of the parties to the filing of this brief has been obtained as required by Rule 42(2) of the Supreme Court Rules.

total membership of approximately three million members. Within the 50 states and the District of Columbia, there are more than 3,000 local Seventh-day Adventist congregations having a membership of more than one-half million.

In the United States alone the Seventh-day Adventist Church operates the second largest Protestant parochial school system. This includes almost 1,000 elementary schools, more than 80 secondary level institutions and 11 colleges and universities.

The Adventist Church in the United States employs more than 3,000 elementary teachers and approximately 4,000 high school and college level teachers and instructors. The elementary schools operated by the Adventist Church in this country have an enrollment in excess of 54,000 students. There are approximately 24,000 children now attending the Church's secondary schools. The enrollment in the colleges and universities operated by the Church in this country approaches 18,000 students.

The Adventist Church conducts its own schools for the purpose of transmitting its ideals, beliefs, attitudes, values, habits and customs to the children of its members. It strongly believes that there is peculiar to the Church a body of knowledge, values and ideals that must be transmitted to the younger generation within the Church in order that the Church may continue to exist.

It believes teacher-employees are servants of God and their students, children of God. The Church operates its church schools in this country primarily for Adventist students.

The Church historically has taken the position that its institutions, for Biblical reasons, should have no involvement with labor organizations. Consistent with this teaching, the Church also has historically taught that its members should neither join nor financially support labor unions and other similar organizations. The Church has consistently viewed the collective bargaining process as destructive of the spiritually based concept of sacrificial service and believes that the presence of a labor organization within the Church program would be counter-productive to the operation of the Church. (See Appendix A.)

Thus, the question of whether the First Amendment is a barrier to the National Labor Relations Board's exercise of jurisdiction over institutions operated by the Church as a part of its gospel mission is of vital importance to the Seventh-day Adventist Church. The concern of the Church for the protection of its right to operate its schools free of excessive union and governmental entanglement and intrusion, and the importance of preserving the free exercise of religion has prompted the Church to file this brief on behalf of Respondents.

QUESTION PRESENTED

Whether exercise of jurisdiction by the NLRB over sectarian schools constitutes impermissible governmental intrusion under the Free Exercise and Establishment Clauses of the First Amendment?

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

The First Amendment to the United States Constitution provides in pertinent part:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *.

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C. 151 *et seq.*) are as follows:

Section 8. (a) It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7;

* * * * *

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. * * *

* * * * *

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9(a).

* * * * *

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith, with respect to wages, hours, and other terms and conditions of employment, * * *

* * * * *

Section 9. (c)(1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board—

(A) by an employee or group of employees or any individual or labor organizations acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in Section 9(a), * * *

* * * * *

the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. * * * If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

ARGUMENT

I.

NLRB's EXERCISE OF JURISDICTION OVER SECTARIAN SCHOOLS IS AN IMPERMISSIBLE GOVERNMENTAL INTRUSION UNDER THE FIRST AMENDMENT's FREE EXERCISE CLAUSE

In determining whether a governmental regulation violates the Free Exercise Clause, it is necessary to balance the importance of the governmental interest against the religious interest to be free from governmental intrusion. *Sherbert* v. *Verner,* 374 U.S. 398 (1963). An important element in this balancing test is the degree of interference with the religious practice. The NLRB's exercise of jurisdiction over reli-

gious schools impinges on religious conduct in clear violation of the Free Exercise Clause of the First Amendment. With respect to Seventh-day Adventists, the NLRB's exercise of jurisdiction over the Seventh-day Adventist schools would "gravely endanger, if not destroy, the free exercise of their religious beliefs." *Wisconsin* v. *Yoder,* 406 U.S. 205, 220 (1972).[1]

Under the "balancing test" approach used by this Court, it is clear that some governmental intrusion into the operation of religious institutions is permissible in severely proscribed circumstances under the First Amendment. The states, in exercise of their power to promote health, safety, and general welfare, or federal government in exercise of its delegated powers, may subject religious-based activities to regulations of general applicability. *Wisconsin* v. *Yoder, supra* at 220. This Court has held that permissible governmental impingements include: fire inspections, building laws, state child labor laws, Sunday closing laws, and vaccination laws.[2] Religious conduct or action regulated by the government "has invariably

[1] The Seventh-day Adventist Church holds a sincere religious belief against recognition of unions or participation of their members in unions. *See* pp. 1-3, *supra* and Appendix A. In *Wisconsin* v. *Yoder, supra* at 220, this Court stated that "belief and action cannot be neatly confined into logic-type compartments." Thus, it is the Seventh-day Adventists' position that exercise of jurisdiction over Seventh-day Adventist schools would violate not only the religious conduct but also religious beliefs of the Seventh-day Adventist Church. *See Cantwell* v. *Connecticut,* 310 U.S. 296 (1940).

[2] *Lemon* v. *Kurtzman,* 403 U.S. 602, 614 (1971); *Prince* v. *Massachusetts,* 321 U.S. 158 (1944) state child labor laws upheld; *Braunfeld* v. *Brown,* 366 U.S. 599 (1961) Sunday closing laws upheld; *Jacobson* v. *Massachusetts,* 197 U.S. 11 (1905) vaccination laws upheld.

posed some substantial threat to public safety, peace, or order." *Sherbert* v. *Verner, supra* at 403.

However, the NLRB's exercise of jurisdiction over sectarian schools is beyond the power of the state and cannot be equated to the aforementioned governmental regulations. This Court has never recognized that the state or federal government may subject a religious institution to regulations which are not uniformly applied to all institutions. The health, safety, several welfare laws outlined above are regulations of general applicability.[3] In contrast, the National Labor Relations Act [hereinafter NLRA],[4] as amended, 29 U.S.C. § 151 *et seq.,* is not uniformly applied to all employers in this country or even to all schools. Sec. 2(2) of the NLRA, 29 U.S.C. § 152(2) specically excludes coverage of nearly three million public elementary and secondary employees.[5]

Further, while the statutory jurisdiction of the National Labor Relations Board [hereinafter NLRB or Board] extends to all representation questions and unfair labor practices "affecting commerce", 29 U.S.C. § 159(c)(1), 160(a), the NLRA has discretion with respect to exercise of its jurisdiction. Under an amendment to the Act of 1959, § 14(c)(1) of the NLRA, 29 U.S.C. § 164(c)(1) provides that the Board may decline jurisdiction by rule of decision or by published rule. Although the NLRA was passed in 1935, the NLRB only assumed jurisdiction over

[3] It should also be understood that in contrast with the aforenoted government regulations, no one is required to belong to a union under the National Labor Relations Act.

[4] 29 U.S.C. § 151 et seq.

[5] Bureau of Census, Public Employment in 1976, GE-76 No. 1 Table 3, page No. 9.

non-profit educational institutions in 1970.[6] It did not assume jurisdiction over religious educational institutions until 1974. *Board of Jewish Education of Greater Washington, D.C.*, 210 NLRB 1037 (1974)[7] This failure of the NLRB to exercise jurisdiction over sectarian schools until recent times and the non-general applicability of the provisions of the NLRA demonstrate that the state's interest in exercising jurisdiction is not compelling.[8]

The religious interests which would be impinged upon by the NLRB's exercise of jurisdiction over sectarian schools are threefold. First, the organized church's right to control and operate its institutions is being invaded. Second, the right of parents to send their children to private schools which espouse certain religious beliefs is impinged upon by the NLRB's exercise of jurisdiction over religious schools. *See Pierce* v. *Society of Sisters*, 268 U.S. 510, 534 (1925). Third, the right of the children to attend religious institutions, which is devoted to teaching religious tenets of a particular faith, is violated by the NLRB's exercise of jurisdiction over sectarian schools.[9]

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[6] *Cornell University*, 183 NLRB 329 (1970).

[7] In view of its failure to exert jurisdiction over religious educational institutions until 1974, this change in jurisdiction should occur only as a result of amendment to the Act by Congress.

[8] In *Wisconsin* v. *Yoder, supra* at 205, 206, 221, this Court held that, where free exercise rights were at stake, the Court must searchingly examine the interests which the government seeks to promote by its regulatory requirements.

[9] The facts of the instant case are clearly distinguishable from the union security cases cited by the NLRB in its brief. (Pet. Brief at 40, n.28). These cases involved individual Plaintiffs who challenged the enforcement of a union security clause against them on the grounds it violated their Free Exercise rights under the First Amendment. The instant case presents the reverse situation. Rather than an individual seeking an accommodation for his or her religious beliefs from the majority, the employer is challenging the statute on the grounds that his recognition of the union violates the First Amendment's Free Exercise Clause. With respect to the Adventist Church, exercise of jurisdiction by the NLRB over Adventist schools would deeply interfere with both the beliefs and religiously-based conduct of the Adventist Church, parents, and children.

A. Any Union Involvement in Sectarian Schools Under the Protection of the NLRA Violates the Free Exercise Clause of the First Amendment.

The very existence of the union on its property would impermissibly intrude into the religious conduct of Adventist schools, children in these schools, and the parents of these children. If the NLRB is able to exercise jurisdiction over such schools, then union organizing activity would be protected under the NLRA. Any action by the Adventist Church to encourage its faculty against joining a union on religous grounds would leave the institution open to an unfair labor practice charge under Sec. 8(a)(1) of the NLRA.

The impermissible governmental intrusion, which would be caused by the NLRB's exercise of jurisdiction over religious institutions, is also seen with respect to the inclusion and exclusion of religious personnel from the bargaining unit. Under Sec. 9(a) of the NLRA, a union may be the bargaining representative of the employees in a unit only if it represents the majority of the employees in the unit. If 50 percent of a bargaining unit in a Catholic school is nuns and they are not members of the unit, it is questionable how much the union represents the bargaining unit.

In the case of Adventist schools, a similar problem would emerge with respect to the ordained ministers of the Adventist Church who teach in Adventist schools. Another bargaining unit problem which might arise where there is a union concerns the abolishment of unit work as reassignment of work to non-unit personnel.

The creation of bargaining units at an Adventist school which has become unionized would conflict with the Church's established concept of "licensed and credentialed missionaries." [10] All of the individuals serving in Adventist schools are licensed or credentialed missionaries. Their work at the institution is considered a part of their religious commitment, and the religious purpose of their work affects the wages they receive. To break these licensed and credentialed missionaries into bargaining units at a given Adventist school would impermissibly impinge upon the important spiritual concept of the Church that each person renders an equally important spiritual ministry to the Church and its constituencies.

Unionization of an institution would normally result in a 25 percent increase in administrative expense to the institution. The Adventist church is a financial underwriter of all of its institutions and the effect of unionization in Adventist schools would impinge on the ability of the Church to freely allocate the funds it receives for the support of its institutions. It should be noted that most Adventist elementary and secondary schools do not receive any direct support from the government for their operation. The financial burden to these schools caused by the administrative expenses resulting from unionization are rendered even more egregious in view of the fact that most of these schools receive no aid from the government.

[10] The Seventh-day Adventist Church classifies all its employees into the following ministries: licensed missionaries, credentialed missionaries, credentialed literature evangelists, licensed ministers, and credentialed ministers.

B. The Obligation of a Sectarian School Under Rule 8(a)(5) to Collectively Bargain with the Union is an Impermissible Intrusion on the Religious Conduct of the Church [11]

1. General Duty to Bargain

The NLRB's exercise of jurisdiction over Adventist schools would place an obligation on them under Sec. 8(a)(5) of the NLRA to bargain in good faith with the union.[12] Bargaining terms which are within the broad area of "wages, hours, and other terms and conditions of employment" are considered mandatory subjects of bargaining and must be bargained on by the employer. *NLRB* v. *Wooster Division of Borg-Warner Corp.*, 356 U.S. 342 (1958). The scope of this mandatory collective bargaining obligation ranges from such weighty topics as plant closure and subcontracting, *Fibreboard Paper Products Corp.* v. *NLRB,* 379 U.S. 203 (1964), to such inconsequential topics as the price of coffee in coffee machines. *Westinghouse Electric*

[11] Excessive intrusion arising from union action becomes governmental action because the collective bargaining process has "the inprimatur of the federal law upon it. . . ." *Railway Employes' Department* v. *Hanson,* 351 U.S. 225, 232 (1956).

[12] Under Sec. 8(d) of the NLRA, collective bargaining is:
"... the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment or negotiations of an agreement ..."
29 U.S.C. 158(d)

Corp., 156 NLRB 1080, *enf. den.* 387 F.2d 542 (4th Cir. 1967).

The NLRB's statement (Pet. Brief at 18) that it has not yet been called upon to determine what subjects of bargaining would be mandatory is meaningless. As noted *supra,* any subject which pertains to "wages, hours, or terms and conditions of employment" is a mandatory subject of bargaining. Specific clauses which are commonly found in collective bargaining agreements and recognized by the courts and the NLRB as mandatory subjects of bargaining include:

> Recognition, Union Security, Non-discrimination, Holidays and Vacations, Wages, Working Conditions, Pensions, Management Rights, Subcontracting, Plant Closures, Discipline/Discharge, and Grievance/Arbitration (*See* pp. 14-21, *infra* and footnotes).

Further, the NLRB's argument (Pet. Brief at 18) that the employer merely has to bargain in good faith and can bargain to impasse on mandatory bargaining terms is unrealistic under Supreme Court and NLRB cases. An adamant stand on virtually all bargaining items will definitely constitute bad faith. *Borg-Warner Controls Division,* 198 NLRB 726 (1972). An employer who takes an adamant stand on one mandatory bargaining issue has a good chance of being found in bad faith.[13] Thus, the NLRB precedent seems to clearly hold under Sec. 8(a)(5) and 8(d) that the employer must give and take (e.g. make concessions) in order to fulfill his "good faith" bargaining

[13] *Orion Tool, Die & Machine Company,* 195 NLRB 1080 (1972); *Longhorn Machine Works,* 205 NLRB 685 (1973).

obligation.[14] These concessions, which are for all practical purposes required under the NLRA, constitute a violation of First Amendment protections.

Further, this type of bargaining procedure results in a chilling effect on the First Amendment rights of a religious employer. For example, if an employer knows that unless he gives a monetary benefit to the union he will be ordered to bargain and the end result will be an increase, he will probably give a monetary benefit even though this might cause his religious school to go under financially. *See NLRB* v. *Reed & Prince Manufacturing Co.,* 96 NLRB 850, 205 F.2d 131 (1st Cir. 1953), *cert. denied,* 346 U.S. 887 (1953).

2. Specific Bargaining Clauses

An analysis of the specific bargaining clauses, which are normally included in the collective bargaining agreement, provides further indication that the exercise of jurisdiction by the NLRB over a sectarian school "necessarily alters or impinges upon the religious character" of the school. *Catholic Bishop of Chicago* v. *NLRB,* Pet. App. 27a.

[14] *Stuart Radiator Core Manufacturing Company,* 173 NLRB No. 27 (1968). In *Stuart Radiator Core Manufacturing Company, supra* the Board found the employer's insistence on its management rights proposal unacceptable, stating:

> "Thus, rigid adherence to proposals which are predictably unacceptable to the Union, may indicate a predetermination not to reach agreement, or a desire to produce a stalemate, in order to frustrate bargaining and undermine the statutory representative." Id at 125.

The Board found that the management rights clause proposal violated Sec. 8(a)(5) because the employer knew that such a proposal would be unacceptable to the union.

a. *Recognition Clause*

The recognition clause is an essential part of the collective bargaining agreement in which the employer recognizes the union as the sole and exclusive bargaining agent for its employees in the bargaining unit. For the sectarian school to be required to recognize the union, which it believes will impinge on its authority, violates the Free Exercise Clause. Further, in the case of the Seventh-day Adventist Church, to recognize the union would be in direct conflict with the Church's teachings. (See Appendix A).[15]

b. *Union Security Clause*

Union security provisions, mandatory subjects [16] of bargaining, are found in 97 percent of collective bargaining agreements.[17] Union security provisions require employees to become or remain union members or to pay the union a fee for serving as their bargaining

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[15] As previously discussed, the Adventist Church has a sincerely held religious belief against recognition of labor organizations. To require the Church to enter into a collective bargaining agreement, which requires it to recognize the union, impinges on its First Amendment rights to free exercise of its religious beliefs and free exercise of conduct based on this religious belief.

[16] *NLRB* v. *General Motors*, 373 U.S. 734 (1963) (Agency shop); *U.S. Gypsum Co.*, 94 NLRB 112 (1951) (Union shop); *NLRB* v. *Reed & Prince Manufacturing Co., supra; Steelworkers* v. *NLRB*, 363 F.2d 272 (D.C. Cir. 1966) (Check off).

[17] COLLECTIVE BARGAINING NEGOTIATIONS AND CONTRACTS, BASIC PATTERNS IN CONTRACTS at 87:1, Bureau of National Affairs, Inc., Washington, D.C.

agent.[18] If the religious personnel are included in the bargaining unit, the inclusion of a union security clause in the collective bargaining agreement of a religious school would require membership in the union by religious personnel. As a result, they could face a dire conflict between obedience to religious authority and compliance with the union rules. For example, in the case of picketing, a nun or minister could be under a command of a religious superior to cross the picket line and subject to union fines if they do.

c. *Non-discrimination*

The non-discrimination clause is a mandatory subject of bargaining commonly sought by the union to be included in collective bargaining agreements.[19] An Adventist school would not want a non-discrimination clause extending to religion because it would prohibit it from giving preferential treatment to persons of its own religion in hiring. However, in actuality the employer must give and take in bargaining in order to meet the good faith bargaining obligation under 8(d). (See pp. 11-12, *supra*). For the sectarian school to have to include a non-discrimination clause which covers religion would constitute a violation of its free exercise rights under the First Amendment.

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[18] If a religious school considers that recognition of a union impinges upon the religious conduct of the institution, the existence of a union security clause in the collective bargaining agreement would infringe on its free exercise rights under the First Amendment.

[19] *Jubilee Manufacturing Co.*, 201 NLRB 272 (1973); *affirmed*, (D.C. Cir. 1974); *NLRB* v. *Tanner Motor Livery*, 419 F.2d 216 (9th Cir. 1969).

d. *Holidays and Vacations*

A sectarian school, which is subject to the requirements of Sec. 8(a)(4) and Sec. 8(d), would be required to bargain on the issue of holidays and vacations, which is a mandatory subject of bargaining.[20] In the give and take, which is virtually required under Sec. 8(d) as interpreted by the Board, (see pp. 11-12 *supra*) a sectarian school could be placed in the position of being unable to observe religious holidays and vacations in accordance with its religion.[21] Involvement of the union pursuant to a collective bargaining agreement, under the aegis of the NLRB, could result in its scheduling of days of religious observances for the sectarian school.

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[20] *Phelps Dodge Copper Products Corp.*, 101 NLRB 360 (1952) (Vacations); *Singer Manufacturing Co.*, 24 NLRB 444 (1940) (Holidays).

[21] For example, a union bargaining with a Catholic institution could bargain not to observe the six Holy Days of Obligation but to recognize some other day of the year as a holiday. *1978 Catholic Almanac* (Huntington, Indiana: Our Sunday Visitor, Inc., Press, 1978), p. 289. The Catholic school might feel that the observance of the Holy Days of Obligation are inherently linked to its religious tenets and the total mission of the school. The Catholic school might bargain to impasse on this point. The union could allege that the employer, Catholic school, was bargaining in bad faith in this terms of bargaining and that, in order to meet its obligation under Sec. 8(d), it has to make some concessions in the bargaining process. It could be that the school would be required to compromise, e.g. have to counterpropose that half of its Holy Days of Obligation be observed so as to meet the good faith requirements of Sec. 8(d).

e. *Wages*

Wages are one of the prime subjects of collective bargaining. As a mandatory subject of bargaining,[22] the union could bargain to impasse on the subject of wage increases during the life of a contract. Religious schools are nonprofit organizations which depend on the support of their members for their operation. Faced with wage demands with the union at the bargaining table, a church organization might have to reassess its priorities and cut back in certain areas which it considers vital to its religious expression. Upon the NLRB's exercise of jurisdiction over the religious institution, the religious institution no longer has the independence to make its own priorities but must share its authority with the union. As the Court of Appeals for the Seventh Circuit noted in this case with respect to parochial schools, "no longer will the bishop be sole repository of authority as required by church law." *Catholic Bishop of Chicago* v. *NLRB*, Pet. App. 27a.

The salary structure of Seventh-day Adventist schools is set by the Church through its North American Division Committee of the General Conference of Seventh-day Adventists. See Appendix B. The basic salary structure of each position within an institution is equivalent throughout the country. For example, a janitor in Des Moines, Iowa, will make the same basic pay as a janitor in Brooklyn, New York. If the school in Brooklyn were unionized and the union negotiated a contract with higher basic wage levels for janitors, this would have the effect of destroying the entire framework of the salary structure within the Church

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[22] 29 U.S.C. § 158(d).

educational system. Such a situation would create problems in terms of mobility of personnel. This involvement via government regulation of the union in the workings of the church organization is an impermissible intrusion into the religious conduct of church institutions.

f. *Working Conditions*

An employer is required by Sec. 8(d) of the NLRA to bargain on working conditions of employment. The Adventist Church teaches against the drinking of coffee. It also has an established policy on no smoking by its members. If the NLRB exercises jurisdiction over an Adventist school, the school could be required to bargain on these issues, constituting an intrusion of its free exercise rights under the First Amendment. If an Adventist teacher smoked, this could be grounds for discharge. If the union were successful in having an arbitration clause included in the collective bargaining agreement, the arbitrator would have to determine whether the discharge was for cause. This would thereby involve the arbitrator, a lay person, in evaluating the church's beliefs and conduct.

g. *Pensions*

Pension and disability plans are mandatory subjects of bargaining under the NLRA.[23] The union could propose that abortions be covered in the sectarian school's disability policy. A sectarian school which opposed abortion on religious grounds would be

[23] *Inland Steel Co.* v. *NLRB*, 170 F.2d 247 (7th Cir. 1948); *cert. denied* 336 U.S. 960 (1949) (Pension plans); *Cross & Co.* v. *NLRB*, 174 F.2d 875 (1st Cir. 1949) (Health and accident insurance plans).

required to bargain to impasse on this point. However, in so doing, it would probably violate Sec. 8(a)(5) and 8(d) of the NLRA which have been interpreted by the NLRB to require concessions in order to be in "good faith." Thus, to comply with the NLRA, the sectarian school would be faced with violating one of its religious tenets.

Another example of how the sectarian school's obligation to bargain on pensions impinges on its free exercise rights concerns legal requirements under the Employee Retirement Income Security Act of 1964, 29 U.S.C. 1001 *et seq.* A religious institution's plan is exempt from complying with the provisions of ERISA.[24] However, if a religious institution as a result of the give and take of bargaining joined a multi-employer plan, it would lose its exemption. Thus, the religious school's obligations under the NLRB could involve it in further government regulation. In the case of Adventist elementary and secondary schools, this possible result of collective bargaining is even more egregious in view of the fact that most of these schools receive no government aid.

h. *Management Rights Clause*

Management rights clauses, which are found in virtually all collective bargaining agreements, are the vehicle through which the employer specifically retains certain rights relating to the operation of the institution. It is likely that a religious school would insist on certain provisions being included in the management rights clause, for example, that it retain the absolute right to terminate a teacher who did not

[24] 29 U.S.C. § 1003(b)(2)

conform to the religious principles of the school. However, under NLRB's precedents an employer's insistence on a broad management rights clause can result in its being found in violation of Sec. 8(a)(5). *San Isabel Electric Services,* 225 NLRB 1073 (1976); *Florida Machine and Foundry Corp.,* 190 NLRB 563 (1971), *enforced,* 78 LRRM 2895 (D.C.Cir. 1971); *cert. denied* 409 U.S. 846 (1972); *Stuart Radiator Core Manufacturing Co., supra.*

i. *Subcontracting*

Subcontracting of bargaining unit work is a mandatory subject of bargaining. *Fibreboard Paper Products Corp.* v. *NLRB,* 379 U.S. 203 (1964). If a religious institution is faced with financial problems and wanted to subcontract with another institution and send its students there for schooling, under Sec. 8(a)(5) and 8(d) of the LMRA it would have to bargain with the union.

j. *Plant Closures*

Under NLRB precedent an employer may be required to bargain over the decision to discontinue operations. *NLRB* v. *Adams Dairy Co.,* 350 F.2d 108 (8th Cir. 1965). In fact, the NLRB has recently held that a church diocese and school association must bargain on the effects of their decision to disband one of the five Catholic schools and make whole the terminated teachers by payment of back pay. *Roman Catholic Diocese of Brooklyn, et al.,* 236 NLRB No. 3 (1978). Under Sec. 8(a)(1) and (5) of the NLRA, if an Adventist church were to assess its priorities and decide to close its school for any reason, the Church could be required to bargain with the union

on this issue. The right to close a school should be completely within the control of the religious institution and to have to bargain with the union constitutes an intrusion on the free exercise rights of the religious group involved.

k. *Discipline/Discharge*

Discipline and discharge of employees are mandatory subjects of bargaining,[25] and clauses pertaining to these subjects are found in over 90 percent of the collective bargaining contracts.[26] While a religious institution might try to include in this clause the permissible reasons for its discharge of an employee, it must be recognized that the union could bargain to impasse on this clause. Thus, the fact that a collective bargaining agreement might include a discipline/discharge clause does not protect the religious institution, children and parents, from intrusion upon their free exercise rights in violation of the First Amendment.

l. *Grievance/Arbitration Clause*

A grievance/arbitration procedure is a mandatory subject of bargaining,[27] and provisions for a grievance/arbitration procedure are included in virtually

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[25] *National Licorice Co.* v. *NLRB,* 309 U.S. 350 (1940).

[26] Collective Bargaining: Negotiations and Contracts Basic Patterns at 40:1 Bureau of National Affairs, Washington, DC (1975).

[27] *Crown Coach Co.,* 155 NLRB 625 (1965); *Bethlehem Steel Corp.,* 136 NLRB 1500 (1962); *Cities Service Oil Co.,* 25 NLRB 36 (1940), *enf'd in part* 122 F.2d 149 (2nd Cir. 1941); *NLRB* v. *Boss Manufacturing Co.,* 118 F.2d 187 (7th Cir. 1941).

all contracts.[28] Certain areas are sometimes excluded from the grievance/arbitration procedure in the course of collective bargaining. However, as this is a mandatory bargaining term, the union could bargain to impasse on this issue. Further, it would not be possible for a religious institution to obtain an exclusion which would protect it from impermissible impingement by this grievance/arbitration procedure, inasmuch as the religiously based conduct and beliefs of the institution permeate all issues relating to the institution.

It is clear that the existence of a grievance/arbitration procedure pursuant to a collective bargaining agreement would result in the lay arbitrator's becoming involved in the consideration of religious beliefs. For example, if the union took to arbitration a termination based on a teacher's failure to adequately instruct his students in church teachings, the arbitrator would be enmeshed in the evaluation of religious practices, standards, and beliefs. A grievance/arbitration procedure could also gravely intrude on the operation of a religious institution in terms of the affect of an arbitrator's monetary award on the resources of the religious institution or church. It is possible that an arbitration award could result in a financial breakdown of a religious institution.

m. *Curriculum*

In the case of a sectarian school, the obligation of the institution to bargain with the bargaining agent of its employees will, in all likelihood, result in the

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[28] Collective Bargaining Negotiations and Contracts Basic Patterns at 51:1, Bureau of National Affairs, Washington, DC (1975).

school losing control over its curricular policy.[29] With respect to Adventist schools as noted supra, the Church requires that all teachers be members of the Church. It is the Church's teaching that religion permeates the whole school curriculum. Thus, it considers every class to be permeated by religion, whether it be physics or art. The Adventist school could be in the position of having to hire non-Adventists as a result of a hiring hall (mandatory bargaining term[30]) which very often is included in a collective bargaining agreement. This strikes at the very heart of the Adventist school's right to set its own curriculum in accordance with its religious beliefs.

C. The Obligations of a Sectarian School Under the Nondiscrimination Provisions of Sec. 8(a)(3) of the NLRA are an Impermissible Intrusion on the Religious Conduct of the Sectarian School.

The standard used in determining whether a discharge was in violation of Sec. 8(a)(3) of NLRA is either the "dominant motive-but for" test espoused

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[29] In this regard the Court of Appeals for the Seventh Circuit in this case (Pet. App. 27-28a) cited Professor Brown, associate dean of Yale Law School, who has observed:

> "Once a bargaining agent has the weight of statutory certification behind it, a familiar process comes to play. First, the matter of salaries is linked to the matter of workload; workload is then related directly to class size, class size to curricular policy. Dispute over class size may also lead to bargaining over admissions policies. This transmutation of academic policy into employment terms is not inevitable, but it is quite likely to occur."

Brown, *Collective Bargaining In Higher Education*, 67 Mich. L Rev. 1067, 1075 (1969).

[30] *NLRB* v. *Houston Chapter, Associated General Contractors of America*, 143 NLRB 409 (1963) *enforced*, 349 F.2d 449 (5th Cir. 1965), *cert. denied*, 382 U.S. 1026 (1966).

by the Court of Appeals for the Fist Circuit[31] or the "but for" test used by the NLRB.[32] Under the "dominant motive-but for" test employed by the First Circuit, the Board must examine the circumstances surrounding the employee's discharge to determine whether the employer's primary motive was anti-union animus. *Hubbard Regional Hospital, supra.* Under the "but for" test employed by the Board, the the NLRB must of necessity evaluate the basis for the employer's discharge of the employee in order to determine whether "but for" the anti-union animus the employee would have been discharged. In sum, under either of these tests it is necessary to weigh why the employer fired an individual.

In the case of a religious institution, the NLRB would often times be involved in evaluating the merits of a decision by a religious institution which was based on religious beliefs. For example, actions by teachers in violation of Church precepts could normally result in their discipline or termination by the Church. However, if an Adventist school discharges a teacher-union member because of immoral conduct (e.g., adultery) which violates sincerely held beliefs of the Church, parents, and the children which support the school, the school could have an unfair labor practice charge brought against it under Sec. 8(a)(1)

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[31] *Hubbard Regional Hospital* v. *NLRB,* —— F.2d ——, 98 LRRM 2891 (1st Cir. 1978). In *Hubbard, supra* at ——, the Court of Appeals for the Fourth Circuit states:

> "Either Board must find that anti-union animus as dominant motive for the discharge and that it would not have taken place but for such animus."

[32] *Hubbard Regional Hospital,* 232 NLRB No. 130 (1977); *Tupperware Co.,* 197 NLRB No. 168 (1972).

and (3). Also, Adventist schools employ only teachers who are members of the Adventist Church. If an Adventist school determined a teacher on its faculty had left the faith, it would terminate him. If such an individual were involved in union activities, the school would be susceptible to an unfair labor practice charge under Sec. 8(a)(3) of the NLRB. In applying its test to determine whether either of these discharges were discriminatory, the NLRB would have to weigh the Church policies on adultery and the hiring of only Adventist members. This involvement of the Board in evaluating religious beliefs constitutes an impermissible governmental intrusion under the Free Exercise clause of the First Amendment.

A religious institution could also face an unfair labor practice charge under Sec. 8(a)(3) of the Act if it decided to close the school due to the added costs of unionization. Closing of the school for this reason could be found to discriminate against the union members in regard to "tenure of employment" under Sec. 8(a)(3) of the Act. With respect to the Adventist church, a decision could be made to close a unionized school because of lack of support from the members as a result of this unionization. This situation clearly presents how the rights and beliefs of the Church, the children attending the school, and their parents, are impinged upon by the employer's obligations under Sec. 8(a)(3) and (5) of the NLRA. Under *Pierce* v. *Society of Sisters, supra,* parents have the right to send their children to a private school. It would seem in total conflict with the First Amendment's Free Exercise clause to penalize a church school for its failure to remain open when its members have determined that they do not wish to send their children to this school.

Additionally, statistics indicate employers are most likely to be involved in unfair labor practice cases, particularly discriminatory discharge cases.[33] Also, NLRB evidentiary rules inhibit the success of an employer in such a proceeding. Specifically, Sec. 17362.2 of the NLRB Trial Examiner's Manual provides that: "Fact that employee witnesses testify vs. employer while still in his employ supports their credibility: in *Georgia Rug,* 131 NLRB 1304, fn. 2." In addition, an employer may not obtain information prior to a hearing on the basis of discriminatory discharge complaint brought against him. Under § 17230.1 of the NLRB Trial Examiner's Manual: "PREHEARING DISCOVERY: The discovery provisions of the Federal Rules of Civil Procedure are not applicable to Board complaint proceedings: *Del Webb Co.,* 95 NLRB 377. Further, this Court recently ruled in *NLRB* v. *Robbins Tire & Rubber Co.,* —— U.S. ——, 98 S.Ct. 2311 (1978) that an employer was not entitled to copies of the potential witnesses' statements collected during the NLRB investigation under the Freedom of Information Act, 5 U.S.C. § 552.

The "up hill" battle which the religious institution would face in a Sec. 8(a)(3) unfair labor practice proceeding gives further weight to the argument that this involvement impermissibly interferes with the religious practices and beliefs of the institution and its supporters.

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[33] Of the total number of complaints issued by the NLRB in fiscal year 1977, 81 percent of the complaints were issued against employers. Of NLRB orders appealed in that fiscal year, 83 percent of the proceedings involved employers. *42nd Annual Report of the NLRB, Fiscal Year Ended September 30, 1977,* Labor Law Reports Issue No. 805, Report 299 (Chicago: Commerce Clearing House, Inc., 1978), pp. 270, 309).

In sum, it is clear that the NLRB's exercise of jurisdiction over sectarian schools would have a coercive effect on the religious conduct of these schools. With respect to Adventist schools, exercise of jurisdiction by the NLRB would impinge on the religious conduct and beliefs of the Adventist Church and its members, which are protected under the First Amendment. The degree of governmental interference into religious conduct cannot be justified by the NLRB's interest in exercising jurisdiction over sectarian schools. Thus, the NLRB's exercise of jurisdiction over sectarian schools is an abuse of its discretion which violates the Free Exercise Clause of the First Amendment.

II.

THE NLRB's EXERCISE OF JURISDICTION OVER SECTARIAN SCHOOLS CONSTITUTES EXCESSIVE ENTANGLEMENT UNDER THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT

The governmental intrusion by the NLRB's exercise of jurisdiction over sectarian schools also constitutes excessive entanglement in violation of the Establishment Clause. The Adventist Church considers its educational thrust to be an integral part of its spiritual mission. This Court has repeatedly recognized that the secular education that a church-operated school provides, goes hand in hand with the religious mission of the church. *Meek* v. *Pittenger,* 421 U.S. 349, 366 (1975). As the Court noted in *Meek, supra,* at 369, 370, it is not even reasonable to expect that teachers in church-related schools will be able to segregate their religious beliefs from their secular educational duties.

This Court has rejected the use of tax funds to purchase instructional materials and equipment for church-operated schools because the purpose of such schools

is to provide an integrated secular and religious education. The Court correctly observed in *Wolman* v. *Walter,* 433 U.S. 229 (1977), that the teaching process in a sectarian school is to a large extent devoted to the inculcation of religious values and beliefs and it is virtually impossible to separate the secular educational function from the sectarian. Thus a church-operated school is an extension of the regular ministry of the church and is central to its role of inculcating the beliefs and doctrines of the church to its young.

This Court in *Murdock* v. *Pennsylvania,* 319 U.S. 105, 109 (1943), held concerning the sale and distribution of religious literature: "This form of religious activity occupies the same high estate under the First Amendment as does worship in the churches and preaching from the pulpits." Certainly, the educational ministry, which was the foundation of education in this country, holds an equal footing under the Religion Clauses of the First Amendment and requires the same constitutional protection.

In *Everson* v. *Board of Education,* 330 U.S. 1 (1947), this Court for the first time held that the Establishment Clause incorporated the principles of separation of church and state. Not only did the Establishment Clause prohibit an established church and any preference among religions, but it went further than this and sought to isolate the affairs of government from the affairs of religion, or in Jefferson's famous language, to "erect a wall of separation between church and state." Even the dissenters in *Everson* agreed, differing only as to where the wall should be built. In the words of Mr. Justice Rutledge, "It [the First Amendment] was to create a complete and permanent separation of the

spheres of religious activity and civil authority . . ." *Id.* at 31-33, (Rutledge, J., dissenting).

This Court has, in fact, declared that it will "not tolerate either governmentally established religion or governmental interference with religion. *Walz* v. *Tax Commission of the City of New York,* 397 U.S. 664, 669 (1970). In *Walz, supra,* at 672, the Court recognized the importance of chartering a judicial course "that preserved the autonomy and freedom of religious bodies while avoiding any resemblance of established religion." It emphasized the necessity of clearly examining governmental actions to see if the government thereby becomes excessively involved in the affairs of the church.

In *Lemon* v. *Kurtzman, supra* at 614, the Court called for the close scrutiny of the degree of entanglement when there was state involvement with religious institutions. Specifically, it was stated that "the objective is to prevent, as far as possible, the intrusion of either into the precincts of the other." *Id.*

The picture of the NLRB's investigators prowling the halls of the church-operated schools and monitoring compliance with its decisions and orders surely raises more than an imaginary spectre of governmental entanglement.[34] The continuing surveillance which

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[34] As discussed *supra,* in Argument I, the NLRB as a quasi-judicial body is charged with the task of determining whether particular conduct constitutes an unfair labor practice as defined in Sec. 8 of the NLRA. This is accomplished in an adversary proceeding. The other main function of the NLRB is one of monitoring as a referee with respect to so called "representation" issues and proceedings. Congress has invested the NLRB with a certain amount of investigatory powers. These powers arise in both representation and unfair labor practice contexts. Sec. 9(c) of the NLRA authorizes investigation of employers and sets forth the procedures by which the NLRB may conduct investigations.

would inevitably result would give rise to a constitutionally intolerable degree of entanglement between the church and the state. *Meek* v. *Pittenger, supra* at 369, 370. Such intermeddling in parochial affairs will breed only rancor and dissension. *Lemon, supra* at 640. Thus, exercise of jurisdiction by the NLRB over sectarian schools, which would cause excessive entanglement, is prohibited under the Establishment Clause.

III. CONCLUSION

For the reasons set forth herein, the judgment of the Court of Appeals in favor of Respondents should be affirmed.

Respectfully submitted,

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APPENDIX

APPENDIX A

Background on Seventh Day Adventist Church Position on Unions

The Seventh-day Adventist Church historically has taken the position that its institutions, for Biblical reasons, should have no dealings with labor organizations.

Within ten years of the Church's founding in 1863, articles began appearing in the Church's general paper, the *Advent Review and Herald of the Sabbath,* warning members of the spiritual dangers of joining such labor organizations as the Knights of Labor.

Early Church fathers cited 2 Corinthians 6:14-18: "Be ye not unequally yoked together with unbelievers; for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness? and what concord hath Christ with Belial? or what part hath he that believeth with an infidel? and what agreement hath the temple of God with idols? for ye are the temple of the living God; as God hath said, I will dwell in them, and walk in them; and I will be their God, and they shall be my people. Wherefore come out from among them, and be ye separate, saith the Lord, and touch not the unclean thing; and I will receive you, and will be a Father unto you, and ye shall be my sons and daughters, saith the Lord Almighty."

Church writers believed association with such labor organizations would cause a loss of interest in spiritual things. In a question-answer column concerning labor organizations George I. Butler, President of the General Conference of Seventh-day Adventists (the highest administrative body of the worldwide Church), in 1886 commented:

> The spirit actuating these societies is anything but harmonious with the spirit of Christ and this message. Not only from a Scriptural stand-point do we perceive the wrong of uniting with them; but our experience

> has demonstrated it over and over again. Scores upon scores have lost their interest in the truth just in this way; slowly and gradually at first, but it resulted in careless indifference, a worldly spirit, and, finally, in apostasy. There is too much risk in such a course for our people to pursue it. We have all we can do to attend to our own work and far more than most of us are doing. We should live humbly, faithfully, and righteously in this world of sin. We should be honest in our dealing with our neighbors, treat them kindly, and be friendly and courteous to all that we can benefit; but to unite in these worldly organizations, and become absorbed and interested in their objects, we think is contrary to the Scriptures.

Butler, "Seventh-day Adventists and Labor Unions," *The Advent Review and Sabbath Herald,* June 22, 1886, at 392.

Mrs. Ellen G. White, a founder of the Seventh-day Adventist Church, whose writings the Seventh-day Adventist Church considers divinely inspired, wrote in 1902:

> We are now to use all our entrusted capabilities in giving the last warning message to the world. In this work we are to preserve our individuality. We are not to unite with secret societies or with trades unions. We are to stand free in God, looking constantly to Christ for instruction. All our movements are to be made with a realization of the importance of the work to be accomplished for God.

White, *7 Testimonies for the Church* 84 (Letter 157, 1902). Mrs. White later that year commented on both oppressive employers and on labor organizations:

> How long will the Lord suffer oppression of the poor that rich men may hoard wealth? These men are heaping together treasures for the last days. Their money is placed where it does no one any good. To

> add to their millions, they rob the poor, and the cries of the starving are no more to them than the barking of a dog. . . .
>
> Those who claim to be the children of God are in no case to bind up with the labor unions that are formed or that shall be formed. This the Lord forbids. Cannot those who study the prophecies see and understand what is before us? The transgressors of the law of God have taken sides with their leader, the general of rebellion. He understands how to devise his satanic schemes and through whom to work for the carrying out of them. He is striving to lead every soul to take sides with him, and under the influence of his temptations; thousands are binding themselves up in bundles, ready to be consumed by the fires of the last day.

White, 2 *Selected Messages* 144 (Letter 201, 1902).

The statements by George I. Butler and Mrs. Ellen G. White, of course, were made in times when membership in labor organizations was voluntary. In fact, during much of this time labor organizations were viewed by much of society—including many of the courts and legislatures—as illegal conspiracies. As secular attitudes concerning labor organizations changed, however, the Church's attitude—which is basically spiritual and not political or economic in nature—remained constant. Always the Church has urged its members, for spiritual reasons, not to become "bound up" with labor organizations. As recently as 1972 the Church's North American Division Committee on Administration (which oversees the Church's work in the United States) reaffirmed the Church's "historical position that its members should not join or financially support labor unions and similar organizations."

"Labor Unions—SDA Position Statement," *Advent Review and Sabbath Herald,* November 30, 1972, at 20, col. 3.

As federal and state governments in more recent years have enacted laws permitting unionization of employees, the Seventh-day Adventist Church has continued upholding its historical philosophy that its institutions cannot become "bound up" with labor organizations.

In 1957 the Church's North American Division Committee on Administration voted the following statement concerning the unionization of Church institutions:

STATEMENT ON UNIONIZATION OF OUR CHURCH INSTITUTIONS

The following statement sets forth the position of the Seventh-day Adventist Church in the United States of America with reference to that body's relationship to industrial union organizations.

We as Seventh-day Adventists base our beliefs on the Holy Scriptures. We cherish as God's gift the principles of liberty of conscience as set forth in the Holy Scriptures, and recognized and acknowledged as inalienable by the Government of the United States, both in the Declaration of Independence and in its Constitution. We not only treasure these liberties ourselves but concede them to all others.

Seventh-day Adventists are in sympathy with the basic objectives of organized labor—proper wages, proper hours, and proper working conditions. We believe that laborers who are conscientiously free to do so are warranted in organizing to obtain such objectives.

Seventh-day Adventists who do not join labor unions are led to take this course because of religious convictions. We feel ourselves barred by conscience from membership in any industrial organization or labor union which involves men of varying convictions being mutually required to adhere to policies, comply with decisions, and abide by restrictions which may be contrary to individual conscience. No person can enjoy or exercise freedom of conscience or religion when bound to a course he believes to be wrong, to be against conscience, to be un-Scriptural!

Not being able, because of religious conviction, to share in measures of coercion, either of labor or capital, we believe that participation in industrial strife accompanied by unfair and unjust practices, either by employers or employees, would subject our consciences to the guilt of sin and the condemnation of the Supreme Judge.

In every institution operated by the denomination all, or almost all, of the employees are members of the Church. Due to this large percentage who individually and collectively share the principles herein outlined, we can neither conscientiously nor consistently as an employing agency favor unionization of the employees in our church-operated institutions. The government and most secular organizations concede to religion a separate and preferred category. Inasmuch as most union organizations respect the Holy Scriptures, we believe they will understandingly respect our position.

In 1976 the General Conference Committee (the administrative body of the worldwide Church that conducts Church business between the Spring Meetings and Annual Councils and the quinquennial General Conference Sessions) approved the following statement, which restates and slightly expands a 1968 action of the General Conference officers and union-conference presidents:

STATEMENT ON LABOR UNIONS

The historic teaching of the Seventh-day Adventist Church, based on the Scriptures and the writings of Ellen G. White, counsels its members and institutions to avoid confederacies that might prevent fulfilling

their obligations to God or hinder the Church in its spiritual ministry.

Because an increasing number of Seventh-day Adventist members and church-operated institutions are finding its necessary to explain their relationship to labor unions and similar organizations,

VOTED: 1. That since the Church recognizes that it has a responsibility as an employer to deal with all of its employees in equity, justice, fairness, and a spirit of Christian concern, its dealings as an employer should be so fair and just as to negate the need or desire of its employees to seek for third party representation.

2. That the Church is opposed to the use of coercion and duress from any and all sources as tools for the accomplishment of economic objectives and for the settlement of disputes and grievances. The Church resists compulsion which might prejudice the accomplishment of its spiritual objectives and lessen the effectiveness of its ministry or which might tend to vest control over its policy-making responsibilities in any third party agency.

3. That because of these principles, and specifically the fact that its schools, hospitals, publishing houses, and other institutions are the Church fulfilling its total ministry of carrying the gospel to all the world, while serving to relieve the physical wants of people of all nations and persuasions, the Church must seek to accomplish its ministry maintaining:

a. Its freedom to uphold the basic religious tenets of the Church, such as Sabbath observance, in its institutional operations;

b. Its freedom to establish operating policies in harmony with its stated objectives;

c. Its freedom to select administrative, institutional, employed staff and all other personnel whose character qualifications are compatible with the objectives of the Church.

4. That it counsel its members as employers and/or employees to refrain from violence, coercion, or any methods incompatible with Christian ideals, as instruments in the attainment even worthwhile of social and economic goals. The Church espouses the principle of being in the world, but not of the world.

5. That responsible boards and administrators of the institutions of the Church conduct the affairs of these institutions in harmony with the principles herein outlined. Therefore Seventh-day Adventist institutions cannot either conscientiously or consistently as employment agencies favor or agree to the unionization of the employees in our church-operated institutions.

Thus, for more than a century, the Seventh-day Adventist Church has been consistent in teaching that its members not join labor organizations and that its institutions cannot either conscientiously or consistently favor or agree to the unionization of the Church's employees.

APPENDIX B

Excerpt From Constitution, By-Laws and Working Policy of the General Conference of Seventh-day Adventists, Washington, D.C.

REMUNERATION OF AND ASSISTANCE TO WORKERS

Y 05 Philosophy of Remuneration

The Seventh-day Adventist Church has accepted the commission given by Jesus Christ to His disciples to proclaim the gospel to all the world. The church employs many agencies to accomplish its spiritual task, but all of its several organizations (conferences, schools, medical institutions, food factories, publishing houses, radio and television ministries, Adventist Book Centers, etc.) have one central objective—the salvation of man. Because of this, every denominational employee has a responsibility to participate in the mission of the church.

To provide a basis for the remuneration of various classes of workers, a denominational wage scale has been adopted. The philosophy of this wage scale is predicated upon the fact that a spirit of sacrifice and dedication should mark God's workers irrespective of the position they hold or the department they represent. The work of the Church, including every denominational organization, is a mission to which lives are dedicated rather than a business or commercial venture. The Church's wage scale does not always compensate its dedicated workers in monetary units commensurate with their talents, accomplishments, and contributions, but does provide workers with a modest living income, which gives recognition of responsibilities borne, preparation undertaken, professional attainment, previous experience, and years of service.

The church believes that modestry and good taste with reasonable comfort will govern the lives of Christian workers. It recognizes that some areas of its work are more

directly affected by economic factors outside of the church organization than are others, and by local economic conditions obtaining in different geographical areas.

The spirit of sacrifice on the part of Adventist employees will be manifested not only by the level of their financial remuneration, but also by the dedication of time, talents, and energy to the cause of God and humanity. Men and women called to labor in the cause of the Adventist Church are to be workers of single purpose and allegiance. With Paul, the great missionary of the early Christian church, they say, "This one thing I do."

The church philosophy of remuneration was developed on the scriptural and spiritual imperative, "Give us this day our daily bread." It is a plan which provides a salary covering the needs of individuals who believe that God blesses the spirit of selfless service and who believe that the Seventh-day Adventist Church has a worldwide mission. The philosophy, from its inception, has anticipated that, in addition to the contribution of time and talent, a Seventh-day Adventist worker will also, from his modest salary, make voluntary gifts to accelerate the proclamation of the gospel, and thus exhibit a further demonstration of faith and commitment. Because of this philosophy, all denominational employees in the Seventh-day Adventist Church are regarded as church workers placed in one of two harmonious categories and designated either as ministers or missionaries. Both categories call for commitment and sacrifice but allow for different functions.

The church has a basic wage scale for all employees in each job classification without discrimination on the basis of race, religion, sex, age, national origin, or color.

If considered in the light of these principles, the wage scale policy of the Seventh-day Adventist Church will be seen to be in harmony with the spirit of nondiscrimination, equal pay, and other requirements, as well as being in conformity to the teachings and beliefs of the church.

Y 10 Wage Scale

In order that there may be equitable basis for the remuneration of various classes of workers, a denominational wage scale, which applies in principle in all the world, has been adopted.

Minimum and maximum rates have been set for the different classes of workers, with the suggestion that workers of long experience and tried service be rated at or near the maximum, whereas those of less experience receive during their early terms of service more nearly the minimum rates.

Each division adopts a wage scale in terms of local currency and in harmony with the living costs and standards of the people in their respective territorries.